

February 15, 2017

FEB 17 '17 AM 10:57

Melanie M. Hill, Executive Director  
Tennessee Health Services and Development Agency  
Andrew Jackson State Office Building, 9<sup>th</sup> Floor  
500 Deaderick Street  
Nashville, Tennessee 37243

**RE: Eye Surgery Center of Knoxville, LLC ("ESCK")  
CN-1611-038**

Dear Ms. Hill:

Please allow this communication to serve as a response to the letter of opposition dated January 31, 2017, received by your office on Monday February 6, 2017 from Tennova Healthcare-North Knoxville Medical Center ("NKMC") concerning Eye Surgery Center of Knoxville, LLC's project ("ESCK"). ESCK is seeking Certificate of Need ("CON") approval as a single specialty ophthalmic ASTC. We requested and received a copy of the letter directly from your office, February 8, 2017, which is included as an attachment. We have not received a copy through the mail due to the incorrect address noted on NKMC's letter-P.O.B. 38142 (should be P.O.B. 381342).

We strongly reject NKMC's assertion that ESCK's CON application does not meet or promote the statutory criteria of orderly development of health care. Furthermore, NKMC fails to provide any substantive support or basis for this assertion and the information presented in the NKMC letter misrepresents the historical and current relationship of the ESCK physicians with NKMC. Currently, there is no equipment, dedicated space, or trained staff to perform ophthalmic surgery at NKMC.

Specifically, the ESCK physicians that currently cover the emergency call for the NKMC-ER facility for eye trauma cases are afforded no OR facilities, no ophthalmic microscopes, no surgical equipment and no staff to perform surgical procedures. Approximately two years ago, the ESCK physicians were told by NKMC (without prior notice) that a financial decision had been made to discontinue having staff and equipment available for any ophthalmic trauma surgery at the facility. Consequently, any eye trauma patients (open globes, etc.) seen in the NKMC- ER by the ESCK physicians (who actually provide the emergency call coverage) must now be transferred to University of Tennessee Hospital for surgery because of the limited resources at NKMC and the inability to care for these patients.

The only equipment available for ophthalmology at NKMC is limited to performing laser procedures. These minor procedures are performed in one of the patient rooms in the surgical holding area, require minimal if any staff (RN must be present in facility for supervision), and no anesthesia. **There are currently no ophthalmic surgical procedures being done in NKMC's Operating Rooms and there is no dedicated procedure room for the laser procedures being performed by ESCK's physicians.** Accordingly, for patient convenience and to facilitate a reduction of cost to the patient, ESCK physicians have made arrangements on an immediate basis to perform these laser procedures in the future outside of NKMC Hospital Outpatient Department ("HOPD") in either their office or new ASTC setting when completed.

St. Mary's Ambulatory Surgery Center (ASTC) was originally jointly owned and operated by Tennova and participating physician investors (including some ESCK physicians). Several years ago, Tennova purchased the existing physician investor ownership, closed the ASTC and converted the existing facility to a hospital outpatient department ("HOPD") of Tennova's Physicians Regional Medical Center ("PRMC") in Knoxville. Since that time ESCK physicians performing surgeries at the facility have experienced inefficiencies due to staff turnover, management turnover and scheduling of patients, while the cost to the patients and insurers have increased from previous ASTC rates to the current HOPD rates which are significantly higher. There has also been a growing uncertainty and concern as to whether or not ophthalmic procedures will continue to be performed at PRMC should Tennova relocate its existing hospital medical center. Also, insurers and patients have been applying an increasing amount of pressure on the ESCK physicians to perform their eye surgery in a more cost-effective environment than the HOPD setting. Primary care providers and internal medicine physicians within Summit Medical Group (East Tennessee's largest organization of primary care providers) are being encouraged to refer their patients to ophthalmologists who utilize ASTCs for their surgical procedures vs more expensive hospital outpatient departments. Major health insurance carriers such as Humana are discouraging usage of hospital outpatient departments vs ASTCs for their plans as cost containment measures and maximum efficiency have become increasingly important in today's healthcare delivery system.

CMS has implemented healthcare reform in a sweeping fashion over the last several years. One aspect of this reform specifically passed in 2015 was the Medicare Access and Chip Reauthorization Act (MACRA). MACRA has become law and ended the sustainable growth rate introducing the Quality Payment Program (QPP). This government initiative brought with it the element of "cost" as a measure of providing care. (<https://qpp.cms.gov/learn/qpp>). In an effort to be in alignment with the new quality measures, ESCK's physician groups have formed an alliance as a consortium of ophthalmologists committed to the highest standards of evidence based medicine while decreasing the financial impact to our patients and the healthcare delivery system by considering the cost of care provided. **According to national average CMS rates established for 2016, Medicare pays hospital outpatient departments \$1,745.00 for performing an outpatient cataract surgery while paying ASTCs \$976.00 for performing the same surgery, a cost differential of \$769.00-78.79% increase in HOPD rate vs. ASC rate. This cost differential results in a \$154.00 co-pay increase for Medicare patient beneficiaries and a \$616.00 increase to Medicare. Private insurance companies tend to save similarly when these eye procedures are performed in ASTCs which means employers incur lower health care costs and their employees receive high quality surgical care.** Ophthalmic surgical procedures performed in HOPD facilities are simply not a viable long term option and continuation of the status quo will not contribute to the orderly development of healthcare required by the greater Knoxville service area based on the projected growth and aging population.

We recognize that HSDA has routinely considered applications for single specialty ophthalmic ASTCs in the past but approval has not been conditioned or limited to physicians practicing in one group as Tennova-NKMC indicated in their letter of opposition. Within Knox County these approved facilities have experienced high utilization and currently have limited availability and capacity. While some of these ophthalmic ASTCs have restricted surgical privileges to members of one physician group, Knoxville Eye Surgery Center has physicians providing eye surgery representing six or seven different practice groups. Our CON application clearly demonstrates that access to these existing free-standing ophthalmic ASTCs in Knox County is severely limited and for the most part these ASTCs are inaccessible. In addition, the referring primary care providers, medical community, insurance carriers/payors, and consumers (patients) have indicated tremendous support for approval of this project which will provide convenient high quality care and cost savings. During the first two years we anticipate the ASTC to be in operation

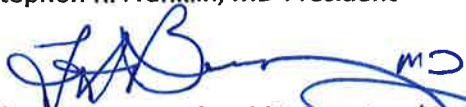
five days/week-8 hrs/day (1 day/week dedicated to laser procedures and 4 days/week dedicated to ophthalmic surgical cases and staffed appropriately).

ESCK's physicians carefully considered the site location for the ASTC project and believe it to be mutually beneficial to all parties (hospital, ASTC, medical community, referring primary care providers & most importantly patients). The ASTC site location is in close proximity to NKMC, Southeast Eye Center (ESCK physician clinics), Summit Medical Group/ IMA (primary care and internal medicine clinic) and other medical practices within the North Knoxville/Powell area. As stated in the CON application, ESCK plans to enter into a patient transfer agreement with NKMC for its single specialty ophthalmic surgery center and will limit its utilization and licensure to ophthalmology. We are excited and committed as physician investors to the successful development of the proposed Eye Surgery Center of Knoxville and believe our project meets the quality standards and criteria required for CON approval by HSDA.

Respectfully submitted by the physician owners of Eye Surgery Center of Knoxville, LLC,



Stephen R. Franklin, MD-President



Thomas A. Browning, MD-Secretary/Treasurer



John T. Dawson, MD-Member



Kevin T. Gallaher, MD-Member



Steven S. Sterling, MD-Member



Matthew D. Lowrance, DO-Member

**Current Office Address:**

Eye Surgery Center of Knoxville, LLC  
7800 Conner Road  
Powell. TN 379849

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FEB 6 '17 AM 9:29

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January 31, 2017

**Ms. Melanie Hill  
Executive Director  
Health Services and Development Agency  
Andrew Jackson Building, 9th Floor  
502 Deaderick Street  
Nashville, TN 37243**

**Re: Eye Surgery Center of Knoxville  
CN1611-038**

**Dear Ms. Hill:**

**Tennova North Knoxville Medical Center ("NKMC") submits this letter of opposition regarding the Eye Surgery Center of Knoxville, CN1611-038, because the application does not meet the statutory criteria of orderly development of health care.**

**NKMC is located at 7565 Dannaher Drive, Powell, Tennessee. The proposed facility would be located 500 yards from our hospital's front door. NKMC's surgery department provides service 24 hours a day, 7 days a week, 365 days a year. The hospital currently has space and access to equipment for ophthalmic surgeons to perform surgery. In 2016, 422 laser surgery cases were performed in the surgery department, and these cases were performed by the physicians proposing to build the new ASTC. The revenue generated from those cases supported the substantial amount of charity care and discounts to uninsured patients provided by NKMC. The approval of this application will adversely affect NKMC by reducing revenue which is used to support a full service hospital and to provide charity care and discounted care to the uninsured. Our hospital will not be the only facility adversely impacted by this project. In 2016, Physicians Regional Medical Center in Knoxville had 1,193 ophthalmic cases performed at the hospital, and 1,176 were performed by the physician investors in the proposed ASTC.**

**While the application cites the desire of the physician investors to "maximize their efficiency," this is simply a euphemism for maximizing their income to the detriment of**

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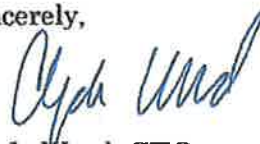
other providers. Indeed, the application states that the net income for the proposed facility will exceed \$1 Million Dollars in its first two years of business, although not operating at full capacity.

The Agency routinely considers applications for single specialty ASTCs limited to physicians practicing in one group. An extremely negative aspect of this project is the fact that it will not be limited to physicians practicing in one group. As the application states, the physician investors are from "four well established ophthalmic groups in Knox County;" and the application states that it is the intent of physician investors to provide surgical privileges to other physicians in the area. The approval of this project will not only reduce revenue to NKMC and the existing providers, it will make it exceedingly difficult, if not impossible, to recruit new physicians to perform ophthalmic surgery.

Finally, there is no groundswell of support from consumers for this project because there is no demonstrated lack of access to obtain ophthalmic services in either outpatient surgery departments of hospitals, or in free standing ASTCs. This is validated by the fact that the applicant proposes to only staff its surgical suites four days a week during the first two years of operation. We respectfully submit that the application does not promote the orderly development of health care, and it should be denied.

In the event that the Agency members are inclined to approve the application, two conditions should be placed on the certificate of need limiting it as a single specialty ASTC and prohibiting the approval of surgical privileges to additional physicians for two years.

Sincerely,



Clyde Wood, CEO  
North Knoxville Medical Center

cc: Stephen H. Rudolph  
Eyecare Resources, LLC  
P. O. Box 38142  
Germantown, TN 38183-1342



# Fountain City Family Physicians

*a member of  
Summit Medical Group, PLLC*

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Katherine C. Bellmore, MD  
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Justin W. Quinn, MD  
Amy R. Rosine, MD  
Courtney B. Curington, NP  
Sarah J. LeVan, NP  
Ashley B. Toney, PA

Becky Jones  
*Administrator*

February 15, 2017

Fountain City Family Physicians is a large group of 12 primary care providers serving our North Knoxville community for over 20 years. Many of the 9 physicians in our office have delivered medical care in this area for over 20 years and understand the need to provide quality care to all patients at a low cost.

We have worked professionally with many of the Ophthalmologists seeking a certificate of need for their ambulatory surgery center for eye care and appreciate their continued, unsurpassed care of our patients. We support their effort to remain community based and, knowing the continued growth in this part of Knoxville, their outpatient surgery center will undoubtedly be well utilized.

Respectfully,

Steven B. Masters, MD  
Managing Partner, Fountain City Family Physicians

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Knoxville, Tennessee 37918

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